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NWS EARLE
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TRANSMITTAL LETTER FOR THE DOCUMENT ENTITLED NOTICE OF VIOLATION AND
COMPLIANCE DEMAND NWS EARLE NJ
4/8/1986
U S EPA REGION II



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10278

APR 08 1986

CERTIFIED MAIL--
RETURN RECEIPT REQUESTED

Captain Perry Benson
Commanding Officer
Naval Weapon Station, Earle
Colts Neck, New Jersey 07722

Re: Resource Conservation and Recovery Act (RCRA)
Notice of Violation and Compliance Demand
RCRA Docket No. 86-0104

Dear Captain Benson:

On October 8 and 11, 1985, a representative of the U.S. Environmental Protection Agency (EPA) Region II, conducted an interim status compliance inspection at Naval Weapon Station, Earle. Through authority established by Section 3008 and 6001 of the Resource Conservation and Recovery Act (RCRA) and as directed by Executive Order No. 12088, you are hereby given notice that Naval Weapon Station, Earle, is in violation of RCRA, as amended by the Hazardous and Solid Waste Disposal Act of 1984 and the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E et seq. and the regulations promulgated thereunder.

Enclosed is a document entitled "Notice of Violation and Compliance Demand" (NOV/CD) which defines each alleged violation observed during the inspection and the corresponding compliance requirements. These violations resulted from the failure to comply with regulations governing generators and treatment, storage and disposal facilities of hazardous waste.

Additionally, written the context of this NOV/CD is a section which proposes a plan and schedule for all corrective action necessary to bring Naval Weapon Station, Earle in compliance with the above mentioned Hazardous Waste Regulations. Within 10 days of receipt of this NOV/CD, please inform us in writing as to whether you are amenable to the proposed corrective action schedule.

EARLE
BOX #

Should you have questions concerning the Findings or Compliance Requirements of the Notice of Violation and Compliance Demand or wish to otherwise discuss this matter, you may request a conference with the EPA and the New Jersey Department of Environmental Protection in accordance with the procedures contained in the section entitled "Informal Settlement Procedure" of the Notice of Violation and Compliance Demand. Be aware that the provisions of this Notice of Violation and Compliance Demand become operative upon receipt of this letter, so should you desire a meeting please contact EPA immediately.

In addition to those violations outlined in the Notice of Violation and Compliance Demand, the following violations of the New Jersey Hazardous Waste Regulations were observed during the October 8 and 11, 1985 inspection:

N.J.A.C. 7:26-9.7(b) requires the owner or operator to carry out immediately the provision of the facility's contingency plan whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment. During the October 8 inspection, an oil spill was observed near the underground waste oil storage tank. At the completion of the inspection on October 11, the same oil spill was observed. Furthermore, two additional oil spills were observed, one near the two hundred fifty gallon waste oil container near Building C-50 and another near the container storage area behind Building C-15.

N.J.A.C. 7:26-9.2(b)3 prohibits the use of any existing underground hazardous waste storage tank unless monitoring pursuant to N.J.A.C. 7:14A-6.1 et seq. is performed; such use is limited to the specified lifetime of the tank and is managed pursuant to N.J.A.C. 7:26-10.5(e)6. At the time of the inspection, no integrity testing was being performed due to the possibility of tank rupture. Moreover, no groundwater monitoring data existed.

N.J.A.C. 7:26-9.4(d)4v requires that every container be arranged so that its identification label is visible. At the time of the inspection, approximately fifty-four drums of waste oil were unlabeled.

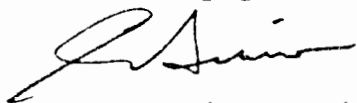
The regulations cited above are beyond the scope of the federal RCRA program and are, therefore, not addressed in the enclosed Notice of Violation and Compliance Demand. They are, nevertheless, applicable to Naval Weapon Station, Earle under state law and should be corrected as soon as possible.

Furthermore, EPA has made a determination based upon information supplied at the time of inspection that the special-use furnace is a RCRA regulated unit. In order to continue use of this unit it will be necessary to submit additional information as specified in the enclosed documents.

Also be advised that should negotiations be ineffective and an agreement is not reached within 30 days of a meeting, and given the serious nature and number of violations, EPA is authorized to issue a joint administrative order with the New Jersey Department of Environmental Protection.

Should you have any questions regarding this letter or the enclosed Notice of Violation and Compliance Demand, please contact Kathleen Chojnowski or Thomas Solecki at (212) 264-2211 or (212) 264-6144, respectively.

Sincerely yours,



Conrad Simon, Director
Air & Waste Management Division

Enclosures

cc: Lloyd Guerici
Director of RCRA Enforcement (w/encl.)

John Skoviak, Assistant Chief
Compliance & Enforcement, NJDEP (w/encl.)

LTC Warren Hull, A-104 (w/encl.)

Lee Harwig, A-104 (w/encl.)

Gerard Burke, Office of Regulatory Service, NJDEP (w/encl.)

-----X
: IN THE MATTER OF: :
: :
: NOTICE OF VIOLATION AND
: COMPLIANCE DEMAND
: NAVAL WEAPON STATION, EARLE :
: COLTS NECK, NEW JERSEY 07722 :
: :
: Docket No. II RCRA-86-0104
: Proceeding under Section 3008 :
: of the Resource Conservation :
: and Recovery Act, 42 U.S.C. :
: \$6928 :
: :
: :
-----X

This Notice of Violation and Compliance Demand ("NOV/CD") is filed pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 et seq. ("the Act") and Executive Order (E.O.) No. 12088.

This is to notify Respondent, NAVAL WEAPON STATION, EARLE,
that the Complainant, the EPA Region II has determined that the

Respondent has violated RCRA and the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E et seq., and the regulations promulgated thereunder, as hereinafter specified:

1. Respondent operates a facility, NAVAL WEAPON STATION, EARLE, located at Colts Neck, New Jersey. Pursuant to Section 6001 of RCRA, 42 U.S.C. §6961, Respondent is subject to all Federal, State, interstate and local requirements, both substantive and procedural, respecting control and abatement of solid waste or hazardous waste disposal in the same manner, and to the same extent, as "any person" (as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. §6903(15) and in N.J.A.C. 7:26-1.4) is subject to such requirements.

2. By notification dated August 18, 1980, Respondent informed EPA that it conducts activities at the facility involving "hazardous waste," as that term is defined in Section 1004(5) of RCRA, 42 U.S.C. §6903(5) and in N.J.A.C. 7:26-1.4. By application dated November 19, 1980, Respondent requested a permit to conduct its hazardous waste activities.

3. On or about October 8 and 11, 1985, an inspection of the facility was conducted by a duly designated employee of EPA pursuant to Section 3007 of the Act, 42 U.S.C. §6927. Said inspection was conducted for the purpose of determining compliance with the New Jersey Hazardous Waste Management Regulations, N.J.A.C. 7:26-1 et seq.

4. N.J.A.C., Title 7, Chapter 26, sets standards for hazardous waste treatment, storage and disposal facilities.

5. During the above referenced inspection, the following violations of RCRA and of the New Jersey Hazardous Waste Management Regulations were identified:

a. Failure to include a waste minimization statement on manifest number NJA0063678 dated September 5, 1985. This statement is required on all manifests as of September 1, 1985 as required by Section 3002(b) of RCRA and 40 CFR 262.20.

b. Failure to post any warning signs at the containers located at the demil storage area and Building C-15 as required by N.J.A.C. 7:26-9.4(h)3.

c. Failure to test numerous containers of waste which are being stored throughout the facility; some containers are mixed in with reactives and ignitables; in particular, the containers located near the demil storage area, C-15, and ordnance carpenter shop. In addition, the bilge water was not tested for total petroleum hydrocarbons. Proper waste analysis is required by N.J.A.C. 7:26-9.4(b)1i.

d. Failure to conduct general inspections at the facility for discharge of hazardous waste constituents to the environment or a threat to human health as required by N.J.A.C. 7:26-9.4(f)1.

e. Failure to develop and maintain an adequate written schedule for inspecting equipment and security devices to be utilized for the prevention, detection, or response to an environmental or human hazard as required by N.J.A.C. 7:26-9.4(f)3, 4, 5 and 6.

f. Failure to provide adequate hazardous waste training for civilian employees as required by N.J.A.C. 7:26-9.4(g).

g. Failure to maintain the following documents and records at the facility for all individuals involved with hazardous waste: a job title for each position; a written description for each position, including requisite skill, education, or other qualifications and duties of employees assigned to each position; a written description of the type and amount of introductory and continuing training; and records that document that the training required under Paragraphs 9.4(a)1 - 5 has been given to and completed by facility personnel. All this is required by N.J.A.C. 7:26-9.4(g)6i-iv.

h. Failure to have immediate access to an internal alarm or emergency communication device during the handling of hazardous waste as required by N.J.A.C. 7:26-9.6(d)1.

i. Failure to provide adequate aisle space in the container storage area behind Building C-15 and the demil storage area as required by N.J.A.C. 7:26-9.6(e).

j. Failure to have agreements with other fire departments off-base which might provide support to the primary emergency authority as required by N.J.A.C. 7:26-9.6(f)2.

k. Failure to familiarize the local hospital with the hazardous waste handled at the facility as required by N.J.A.C. 7:26-9.6(f)4.

l. Failure to make arrangements to have the local fire department inspect the facility on a regular basis with at least two (2) inspections annually as required by N.J.A.C. 7:26-9.6(f)5.

m. Failure to develop a contingency plan which is designed to minimize hazards to human health or the environment from fire or explosion as required by N.J.A.C. 7:26-9.7(a) and (c). The contingency plan only addresses spills.

n. Failure to describe arrangements in the contingency plan agreed to by local police departments, fire departments, hospitals, and State and local emergency response teams to coordinate emergency services as required by N.J.A.C. 7:26-9.7(e).

o. Failure to include in the contingency plan a list and locations of emergency equipment at the facility as required by N.J.A.C. 7:26-9.7(g).

p. Failure to provide a copy of the contingency plan to local authorities as required by N.J.A.C. 7:26-9.7(i)2.

q. Failure to develop an adequate closure plan as required by N.J.A.C. 7:26-9.8.

r. Failure to develop a written closure cost estimate as required by N.J.A.C. 7:26-9.10.

s. Failure to store hazardous waste in sturdy, leak-proof containers as required by N.J.A.C. 7:26-9.4(d)1i. In particular, waste was stored in cardboard drums and wooden boxes.

t. Failure to manage containers so that they are kept securely closed except during filling or emptying as required by N.J.A.C. 7:26-9.4(d)4i. A total of 18 drums of hazardous waste were opened and not in use, 3 behind Building C-15 and 15 in the demil storage area.

u. Failure to segregate containerized hazardous waste in storage behind Building C-15 by waste type and compatibility as required by N.J.A.C. 7:26-9.4(d)(4)iv.

v. Failure to arrange every container behind Building C-15 and in the demil storage area so that its identification label is visible as required by N.J.A.C. 7:26-9.4(d)4v.

w. Failure to inspect, at least daily, areas where containers are stored, looking for leaks and for deterioration caused by corrosion or other factors as required by N.J.A.C. 7:26-9.4(d)5.

x. Failure to segregate containers of hazardous waste behind Building C-15 that are incompatible with any waste or materials stored nearby by means of a dike, berm or other device as required by N.J.A.C. 7:26-9.4(d)7iii.

y. Failure to post "No Smoking" signs near Building C-15 and the demil storage area as required by N.J.A.C. 7:26-9.4(e)1iii.

z. Exceeding design capacity for container storage. The facility is authorized to store 800 gallons of hazardous waste in containers. At the time of inspection, approximately 3300 gallons of hazardous waste were in container storage. This is prohibited by N.J.A.C. 7:26-12.3(b)3.

aa. Employing processes not specified in the Part A application; particularly open burning (EOD area - T04). This is prohibited by N.J.A.C. 7:26-12.3(b)2.

COMPLIANCE REQUIREMENTS

The foregoing allegations of this NOV/CD are based on authority established by Section 3008 of RCRA, 42 U.S.C. §6928, and Section 6001 of RCRA, 42 U.S.C. §6961. As directed by Executive Order No. 12088, Section 1-101, the head of each executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency. The following compliance requirements are based upon the responsibility of the Naval Weapon Center, Earle to implement and assure compliance with applicable pollution control standards.

1. Immediately upon receipt of this NOV/CD, the Respondent shall:

a. Use and manage all containers so as to conform with N.J.A.C. 7:26-9.4(d)1, 2, 4, 5, and 7iii.

b. Provide adequate aisle space for all containers in the storage area behind Building the C-15 and the demil storage area so as to comply with N.J.A.C. 7:26-9.6(e).

c. Include a waste minimization statement on all future manifests so as to comply with Section 3002(b) of RCRA and 40 CFR 262.20.

d. Conduct a general inspection of the entire facility (particularly where hazardous materials are handled) for discharges of hazardous waste constituents to the environment or a threat to human health so as to comply with N.J.A.C. 7:26-9.4(f)1.

e. If operation of the present incinerator is to continue, comply with N.J.A.C. 7:26-11.5. All hazardous waste destined for incineration must be handled in accordance with New Jersey Hazardous Waste Regulations. If, however, continued incineration is not desired, Respondent shall, within 60 days, submit a closure plan adequate to meet the requirements of N.J.A.C. 7:26-9.8, 9.10 and 11.5(d).

f. Cease operation of the open burning area. The continued use of this area is subject to NJDEP approval. If such approval is not obtained, Respondent shall submit within 60 days, a closure plan adequate to meet the requirements of N.J.A.C. 7:26-9.8 and 9.10.

g. Cease any acceptance and disposal of hazardous waste from outside sources.

2. Within 10 calendar days of receipt of this NOV/CD, Respondent shall:

a. Post the proper warning signs in all areas where containers are stored so as to comply with N.J.A.C. 7:26-9.4(h)3.

b. Post "No Smoking Signs" in any area where ignitable or reactive wastes are handled or stored so as to comply with N.J.A.C. 7:26-9.4(e)liii.

3. Within 30 calendar days of receipt of this NOV/CD, Respondent shall:

a. Conduct waste analyses of the contents of all drums of unknown waste and any bilge water so as to comply with N.J.A.C. 7:26-9.4(b)1i.

b. Develop and maintain an adequate written schedule for inspecting equipment and devices to be utilized for the prevention, detection or response to an environmental or human hazard as required by N.J.A.C. 7:26-9.4(f)3-6.

c. Familiarize the local hospital with the hazardous waste handled at the facility so as to comply with N.J.A.C. 7:26-9.6(f)4.

d. Make arrangements with other fire departments off-base which might provide support to the primary emergency authority so as to to comply with N.J.A.C. 7:26-9.6(f)2.

e. Make arrangements with the local fire departments to inspect facility at least twice annually so as to comply with N.J.A.C. 7:26-9.6(f)5.

f. Dispose of off-site all hazardous waste stored in containers exceeding that which is authorized by present permit so as to comply with N.J.A.C. 7:26-12.3(b)3. If Respondent desires waste storage in containers in excess of that which is presently authorized, such storage can only occur in accordance with N.J.A.C. 7:26-12.3(c)2.

g. If continued use of the EOD area and incinerator is desired, submit a revised Part A to the New Jersey Department of Environmental Protection and the EPA to include

thermal treatment and incineration.

4. Within 60 calendar days of receipt of this NOV/CD, Respondent shall:

a. Instruct all civilian personnel of their duties in a way that ensures the facility's compliance with the requirements of N.J.A.C. 7:26-9.4(g).

b. Compile and maintain documents and records at the facility for all individuals involved with hazardous waste activities so as to comply with N.J.A.C. 7:26-9.4(g)6i-iv.

c. Develop a contingency plan adequate to meet the requirements of N.J.A.C. 7:26-9.7(a) and (c).

d. Modify the contingency plan to describe agreements with local police departments, fire departments, hospitals and state and local emergency response teams so as to comply with N.J.A.C. 7:26-9.7(e).

e. Modify the contingency plan to include a list of emergency equipment and the location throughout the facility of each item on the list so as to comply with N.J.A.C. 7:26-9.7(g).

f. Provide a copy of the contingency plan to local authorities so as to comply with N.J.A.C. 7:26-9.7(i)2.

g. Develop an adequate closure plan and closure cost estimate so as to comply with N.J.A.C. 7:26-9.8 and 9.10.

5. Within five (5) days of each applicable compliance date specified in Paragraphs 1 through 4 above, Respondent shall

submit to EPA written notice of its compliance (accompanied by a copy of any appropriate supporting documentation) or noncompliance for each of the requirements set forth herein, including copies of all written plans, documents or records required to be prepared pursuant to the above regulations. If the Respondent is in non-compliance with a particular requirement, the notice shall state the reasons for noncompliance and shall provide a schedule for achieving expeditious compliance with the requirement. Notice of noncompliance will in no way excuse the noncompliance. This information request is not subject to the Paperwork Reduction Act of 1980, 44 U.S.C. §3501 et seq.

6. Respondent shall submit the above required information and notices to the following addressee:

Mr. Richard Walka

Chief, Solid Waste Branch

U.S. Environmental Protection Agency, Region II

26 Federal Plaza, Room 1000

New York, New York 10278

Mr. Robert Hargrove

Federal Facilities Coordinator

U.S. Environmental Protection Agency, Region II

26 Federal Plaza

New York, New York 10278

Mr. John Skoviak
Assistant Chief, Compliance and Enforcement
New Jersey Department of Environment Protection
120 Route 156
Yardville, New Jersey 08620

7. In addition to submitting the revised Part A to EPA,
Respondent shall submit the revised Part A and any closure plans to:

Mr. Frank Coolick
Chief, Bureau of Hazardous Waste Engineering
Division of Waste Management
New Jersey Department of Environmental Protection
8 East Hanover Street
Trenton, New Jersey 08625

STATE RIGHTS

Nothing in this Notice of Violation/Compliance Demand shall prohibit, prevent or otherwise preclude the New Jersey Department of Environmental Protection from taking whatever legal action it deems appropriate to enforce the New Jersey Hazardous Waste Regulations or any other environmental protection Laws of the State.

INFORMAL SETTLEMENT PROCEDURES

The Agency encourages Respondent to confer with EPA concerning the alleged violations described in this NOV/CD. Such a

conference provides Respondent with an opportunity to respond to the charges informally and to provide whatever additional information Respondent feels is relevant to the disposition of this matter, including: (1) actions you have taken to correct any violations; and (2) other special circumstances you wish to raise. Any settlement of this matter shall be made final by the issuance of a Federal Facilities Compliance Agreement which must be approved by the Regional Administrator.

Any questions that you may have regarding this NOV/CD should be directed to Kathleen J. Chojnowski of our office of Regional Counsel, EPA Region II at 212/264-2211. If you desire an informal conference, please contact Ms. Chojnowski.

COMPLAINANT:

March 31, 1986


CONRAD SIMON

Director

Air & Waste Management Division
Environmental Protection Agency
Region II

To: Captain Perry Benson
Commanding Officer
Naval Weapon Station, Earle
Colts Neck, New Jersey 07722